

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

SEYED SAEID ZAMANIEH SHAHI,

No. 2:21-cv-0208 KJM DB PS

Plaintiff,

ORDER

USCIS SACRAMENTO FILED OFFICE
U.S. DEPARTMENT OF HOMELAND
SECURITY,

Defendant.

Plaintiff Seyed Saeid Zamanieh Shahi is proceeding in this action pro se. This matter was referred to the undersigned in accordance with Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1). Plaintiff commenced this action on February 2, 2021, by filing a complaint and paying the required filing fee. (ECF No. 1.)

On April 26, 2021, plaintiff filed a request that simply asks for “permission for ‘Access to Electronically File Documents.’” (ECF No. 7.) Plaintiff’s request, however, makes no reference to plaintiff’s ability to filing documents electronically, willingness to consent to electronic service, or that plaintiff has reviewed this court’s requirements for electronic filing. See generally Local Rules 131, 133, 137, 140, & 141. Plaintiff’s motion, therefore, will be denied without prejudice to filing a renewed motion that acknowledges plaintiff has reviewed the court’s Local Rules and requirements for electronic filing.

1 Also, on March 1, 2021, plaintiff filed a purported proof of service on the defendant.
2 (ECF No. 4.) On April 20, 2021, pursuant to plaintiff's request, the Clerk entered defendant's
3 default. (ECF No. 6.) On April 28, 2021, plaintiff filed a motion for default judgment. (ECF No.
4 12.) And on May 20, 2021, plaintiff filed a motion for citizenship. (ECF No. 14.) Plaintiff's
5 motions, however, were not noticed for hearing in violation of Local Rule 230. Moreover, the
6 motions do not contain legal analysis and are essentially just a collection of exhibits.

7 Most importantly, however, review of plaintiff's purported proof of service on the
8 defendant reflects that plaintiff attempted to serve the defendant personally and by mail at the
9 USCIS Sacramento Field Office. (ECF No. 4 at 3.) Defendant, however, is an agency of the
10 United States. Rule 4 of the Federal Rules of Civil Procedure provides that to serve an agency of
11 the United States a plaintiff must not only send summons to the agency, but must also:

12 (A)(i) deliver a copy of the summons and of the complaint to the
13 United States attorney for the district where the action is brought--or
14 to an assistant United States attorney or clerical employee whom the
15 United States attorney designates in a writing filed with the court
16 clerk--or
17 (ii) send a copy of each by registered or certified mail to the civil-
18 process clerk at the United States attorney's office;
19 (B) send a copy of each by registered or certified mail to the Attorney
20 General of the United States at Washington, D.C.; and
21 (C) if the action challenges an order of a nonparty agency or officer
22 of the United States, send a copy of each by registered or certified
23 mail to the agency or officer.

24 Fed. R. Civ. P. 4(i)(1).

25 On April 28, 2021, Assistant United States Attorney Audrey Hemesath filed an opposition
26 to plaintiff's motion for default judgment confirming that the "Office of the United States
27 Attorney was not served in this case, nor was the Attorney General[.]" (ECF No. 9 at 1.) "A
28 federal court does not have jurisdiction over a defendant unless the defendant has been served
properly under Fed. R. Civ. P. 4." Direct Mail Specialists, Inc. v. Eclat Computerized
Technologies, Inc., 840 F.2d 685, 688 (9th Cir. 1988).

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1 Accordingly, IT IS HEREBY ORDERED that:

2 1. The Clerk of the Court shall vacate the entry of defendant's default;

3 2. Plaintiff's April 26, 2021 motion for electronic filing (ECF No. 7) is denied without

4 prejudice to renewal;

5 3. Plaintiff's April 28, 2021 motion for default judgment (ECF No. 12) is denied without

6 prejudice to renewal;

7 4. Plaintiff's May 20, 2021 motion for citizenship (ECF No. 14) is denied without

8 prejudice to renewal;

9 5. Plaintiff is granted sixty days to properly serve the defendant; and

10 6. Plaintiff is cautioned that the failure to timely comply with this order may result in a

11 recommendation that this action be dismissed.

12 Dated: August 27, 2021



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15 DEBORAH BARNES
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UNITED STATES MAGISTRATE JUDGE

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